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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,061	10/28/2003	Shigeo Yoshihara	8029-1057	3838
466	7590	10/05/2005	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,061

Applicant(s)

YOSHIHARA, SHIGEO

Examiner

Jason M. Han

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20031028, 20040609.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The disclosure is objected to because of the following informalities:
 - a. Page 1, Line 9: Grammatical error – “has” should read as “have”;
 - b. Page 2, Line 5: Grammatical error – “build” should read as “built”;
 - c. Page 2, Line 12: Grammatical error – “capturing” should read as “capture”;
 - d. Page 3, Lines 16-17: Grammatical error – delete “be made”;
 - e. Page 3, Line 26: Grammatical error – delete “be made”;
 - f. Page 4, Line 18: Grammatical error – delete “be made”;
 - g. Page 4, Line 28: Grammatical error – delete “be made”;
 - h. Page 5, Line 19: Grammatical error – delete “be made”;
 - i. Page 5, Line 29: Grammatical error – delete “be made”;
 - j. Page 7, Line 15: Grammatical error – “lighting” should read as “lit”;
 - k. Page 8, Line 22: Grammatical error – “case” should read as “cases”;

Appropriate correction is required.

Claim Objections

3. Claims 3-8, 11-16, and 19-24 are objected to because of the following informalities: Applicant recites the limitation, “to be made emit light”, which should read as “to emit light”. Appropriate correction is required.

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4. Claim 11 is objected to because of the following informalities: Applicant recites the limitation, "a third control step", which lacks antecedent basis considering the Applicant has not provided basis for a second control step within the claim. Appropriate correction is required.

5. Claim 13 is objected to because of the following informalities: Applicant recites the limitation, "a third control step", which lacks antecedent basis considering the Applicant has not provided basis for first or second control steps. Appropriate correction is required.

6. Claim 15 is objected to because of the following informalities: Applicant recites the limitation, "a third control step", which lacks antecedent basis considering the Applicant has not provided basis for a second control step within the previous claim, but has rather defined multiple third control steps. Appropriate correction is required.

7. Claim 16 is objected to because of the following informalities: Applicant recites the limitation, "a third control step", whereby the Applicant has defined multiple third control steps given Claim 12. Appropriate correction is required.

The following claims have been rejected in light of the specification, but rendered the broadest interpretation as construed by the Examiner [MPEP 2111].

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Nishimura et al. (U.S. Publication 2003/0013484).

Nishimura discloses a mobile phone/mobile communication terminal [Figures 10, 15] including:

- A capturing section [Figure 15: (133)] for capturing an image;
- A light emitting section [Figure 15: (136)] for emitting light to illuminate a subject when capturing an image;
- An operation inputting section [Figure 15: (135)] through which a user inputs information to operate the mobile phone; and
- A control section [Figure 15: (121)] for controlling the respective sections, wherein the control section controls the light emitting section so as to continuously emit light while capturing a moving image so that a time length for emitting light varies depending on whether a still image or a moving image is captured [Page 10, Paragraph 157].

9. Claim 3 is rejected under 35 U.S.C. 102(e) as being anticipated by Nishimura et al. (U.S. Publication 2003/0013484).

Nishimura discloses a mobile phone/mobile communication terminal [Figures 10, 15] including:

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- A capturing section [Figure 15: (133)] for capturing an image;
- A light emitting section [Figure 15: (136)] for emitting light to illuminate a subject when capturing an image;
- An operation inputting section [Figure 15: (135)] through which a user inputs information to operate the mobile phone; and
- A control section [Figure 15: (121)] for controlling the respective sections;
- Wherein the control section controls the light emitting section so as to continuously emit light while capturing a moving image so that a time length for emitting light varies depending on whether a still image or a moving image is captured [Page 10, Paragraph 157], and
- Whereby the control section controls the light emitting section to emit light so that the intensity of light emitted from the light emitting section at the time of continuous lighting while the capturing section is not active becomes lower than the intensity of light emitted from the light emitting section at the time of capturing an image [Page 11, Paragraph 174].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) in view of Sasaki (JP2001138441A).

Nishimura discloses a mobile phone/mobile communication terminal [Figures 10, 15] including:

- A capturing section [Figure 15: (133)] for capturing an image;
- A light emitting section [Figure 15: (136)] for emitting light to illuminate a subject when capturing an image;
- An operation inputting section [Figure 15: (135)] through which a user inputs information to operate the mobile phone; and
- A control section [Figure 15: (121)] for controlling the respective sections, wherein the control section controls the light emitting section so as to continuously emit light while capturing a moving image so that a time length for emitting light varies depending on whether a still image or a moving image is captured [Page 10, Paragraph 157].

Nishimura does not specifically teach the control section controlling the light emitting section to continuously emit light until a predetermined operation is executed, all of which while the capturing section is not active.

Sasaki teaches a mobile phone capable of capturing images [Figure 5: (5)] and also having a flashlight function, wherein lights [Figures 1-2: (31)] are illuminated until a predetermined operation is executed [Figures 1-2: (41)].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the mobile phone of Nishimura to incorporate the flashlight mechanism of Sasaki in order to provide greater flexibility and control with the light emitting section, whereby users may illuminate nearby objects in dark conditions.

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11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) in view of Sasaki (JP2001138441A).

Nishimura discloses a mobile phone/mobile communication terminal [Figures 10, 15] including:

- A capturing section [Figure 15: (133)] for capturing an image;
- A light emitting section [Figure 15: (136)] for emitting light to illuminate a subject when capturing an image;
- An operation inputting section [Figure 15: (135)] through which a user inputs information to operate the mobile phone; and
- A control section [Figure 15: (121)] for controlling the respective sections;
- Wherein the control section controls the light emitting section so as to continuously emit light while capturing a moving image so that a time length for emitting light varies depending on whether a still image or a moving image is captured [Page 10, Paragraph 157], and
- Whereby the control section controls the light emitting section to emit light so that the intensity of light emitted from the light emitting section at the time of continuous lighting while the capturing section is not active becomes lower than the intensity of light emitted from the light emitting section at the time of capturing an image [Page 11, Paragraph 174].

Nishimura does not specifically teach the control section controlling the light emitting section to continuously emit light until a predetermined operation is executed, all of which while the capturing section is not active.

Sasaki teaches a mobile phone capable of capturing images [Figure 5: (5)] and also having a flashlight function, wherein lights [Figures 1-2: (31)] are illuminated until a predetermined operation is executed [Figures 1-2: (41)].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the mobile phone of Nishimura to incorporate the flashlight mechanism of Sasaki in order to provide greater flexibility and control with the light emitting section, whereby users may illuminate nearby objects in dark conditions.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) as applied to Claim 1 above, and further in view of Ito et al. (U.S. Publication 2003/0107655).

Nishimura discloses the claimed invention as cited above. In addition, Nishimura teaches the control section controlling the light emitting section to emit light so that the intensity of light emitted from the light emitting section at the time of continuous lighting while the capturing section is not active becomes lower than the intensity of light emitted from the light emitting section at the time of capturing an image [Page 11, Paragraph 174].

Nishimura does not specifically teach a plurality of light emitting diodes, whereby the control section controls the number of light emitting diodes to emit light at various intensities.

Ito teaches, "In the case of the structure in which the plural LEDs are provided and the quantity of light from the LEDs is controlled by changing the number of LEDs to be driven, the control of the quantity of light at least corresponding to the number of

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LEDs can be performed and the quantity of light can be increased more than that in the case of a single LED [Page 5, Paragraph 50].”

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the mobile phone of Nishimura to incorporate the varying intensities via number of emitting LEDs, as taught by Ito, in order to provide a broader range of brightness, whereby “the quantity of light can be increased more than that in the case of a single LED”.

13. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) in view of Sasaki (JP2001138441A) as applied to Claim 2 above, and further in view of Ito et al. (U.S. Publication 2003/0107655).

Nishimura in view of Sasaki discloses the claimed invention as cited above. In addition, Nishimura teaches the control section controlling the light emitting section to emit light so that the intensity of light emitted from the light emitting section at the time of continuous lighting while the capturing section is not active becomes lower than the intensity of light emitted from the light emitting section at the time of capturing an image [Page 11, Paragraph 174].

Neither Nishimura nor Sasaki specifically teaches a plurality of light emitting diodes, whereby the control section controls the number of light emitting diodes to emit light at various intensities.

Ito teaches, “In the case of the structure in which the plural LEDs are provided and the quantity of light from the LEDs is controlled by changing the number of LEDs to be driven, the control of the quantity of light at least corresponding to the number of

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LEDs can be performed and the quantity of light can be increased more than that in the case of a single LED [Page 5, Paragraph 50].”

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the mobile phone of Nishimura in view of Sasaki to incorporate the varying intensities via number of emitting LEDs, as taught by Ito, in order to provide a broader range of brightness, whereby “the quantity of light can be increased more than that in the case of a single LED”.

14. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) as applied to Claim 3 above, and further in view of Ito et al. (U.S. Publication 2003/0107655).

Nishimura discloses the claimed invention as cited above. In addition, Nishimura teaches the control section controlling the light emitting section to emit light so that the intensity of light emitted from the light emitting section at the time of continuous lighting while the capturing section is not active becomes lower than the intensity of light emitted from the light emitting section at the time of capturing an image [Page 11, Paragraph 174].

Nishimura does not specifically teach a plurality of light emitting diodes, whereby the control section controls the number of light emitting diodes to emit light at various intensities.

Ito teaches, “In the case of the structure in which the plural LEDs are provided and the quantity of light from the LEDs is controlled by changing the number of LEDs to be driven, the control of the quantity of light at least corresponding to the number of

LEDs can be performed and the quantity of light can be increased more than that in the case of a single LED [Page 5, Paragraph 50].”

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the mobile phone of Nishimura to incorporate the varying intensities via number of emitting LEDs, as taught by Ito, in order to provide a broader range of brightness, whereby “the quantity of light can be increased more than that in the case of a single LED”.

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) in view of Sasaki (JP2001138441A) as applied to Claim 4 above, and further in view of Ito et al. (U.S. Publication 2003/0107655).

Nishimura in view of Sasaki discloses the claimed invention as cited above. In addition, Nishimura teaches the control section controlling the light emitting section to emit light so that the intensity of light emitted from the light emitting section at the time of continuous lighting while the capturing section is not active becomes lower than the intensity of light emitted from the light emitting section at the time of capturing an image [Page 11, Paragraph 174].

Neither Nishimura nor Sasaki specifically teaches a plurality of light emitting diodes, whereby the control section controls the number of light emitting diodes to emit light at various intensities.

Ito teaches, “In the case of the structure in which the plural LEDs are provided and the quantity of light from the LEDs is controlled by changing the number of LEDs to be driven, the control of the quantity of light at least corresponding to the number of

LEDs can be performed and the quantity of light can be increased more than that in the case of a single LED [Page 5, Paragraph 50].”

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the mobile phone of Nishimura in view of Sasaki to incorporate the varying intensities via number of emitting LEDs, as taught by Ito, in order to provide a broader range of brightness, whereby “the quantity of light can be increased more than that in the case of a single LED”.

16. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484).

Claims 9 and 17 are considered an obvious method and program for the control section, respectively, since the claims recite the structural limitations of the apparatus found in Independent Claim 1. Thus, the prior art of Nishimura is an obvious teaching over the scopes of the present claims, since it has been held an obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could construct a method/program claim for said apparatus.

17. Claims 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) in view of Sasaki (JP2001138441A).

Claims 10 and 18 are considered an obvious method and program for the control section, respectively, since the claims recite the structural limitations of the apparatus found in Independent Claim 2. Thus, the prior art of Nishimura in view of Sasaki is an obvious teaching over the scopes of the present claims, since it has been held an

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obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could construct a method/program claim for said apparatus.

18. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484).

Claims 11 and 19 are considered an obvious method and program for the control section, respectively, since the claims recite the structural limitations of the apparatus found in Independent Claim 3. Thus, the prior art of Nishimura is an obvious teaching over the scopes of the present claims, since it has been held an obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could construct a method/program claim for said apparatus.

19. Claims 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) in view of Sasaki (JP2001138441A).

20. Claims 12 and 20 are considered an obvious method and program for the control section, respectively, since the claims recite the structural limitations of the apparatus found in Independent Claim 4. Thus, the prior art of Nishimura in view of Sasaki is an obvious teaching over the scopes of the present claims, since it has been held an obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could construct a method/program claim for said apparatus.

21. Claims 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) as applied to Claims 9 and 17, respectively above, and further in view of Ito et al. (U.S. Publication 2003/0107655).

Claims 13 and 21 are considered an obvious method and program for the control section, respectively, since the claims recite the structural limitations of the apparatus found in Claim 5. Thus, the prior art of Nishimura in further view of Ito is an obvious teaching over the scopes of the present claims, since it has been held an obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could construct a method/program claim for said apparatus.

22. Claims 14 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) in view of Sasaki (JP2001138441A) as applied to Claims 10 and 18, respectively above, and further in view of Ito et al. (U.S. Publication 2003/0107655).

Claims 14 and 22 are considered an obvious method and program for the control section, respectively, since the claims recite the structural limitations of the apparatus found in Claim 6. Thus, the prior art of Nishimura in view of Sasaki, and in further view of Ito is an obvious teaching over the scopes of the present claims, since it has been held an obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could construct a method/program claim for said apparatus.

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23. Claims 15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) as applied to Claims 11 and 19, respectively above, and further in view of Ito et al. (U.S. Publication 2003/0107655).

Claims 15 and 23 are considered an obvious method and program for the control section, respectively, since the claims recite the structural limitations of the apparatus found in Claim 7. Thus, the prior art of Nishimura in further view of Ito is an obvious teaching over the scopes of the present claims, since it has been held an obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could construct a method/program claim for said apparatus.

24. Claims 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (U.S. Publication 2003/0013484) in view of Sasaki (JP2001138441A) as applied to Claims 12 and 20, respectively above, and further in view of Ito et al. (U.S. Publication 2003/0107655).

Claims 16 and 24 are considered an obvious method and program for the control section, respectively, since the claims recite the structural limitations of the apparatus found in Claim 8. Thus, the prior art of Nishimura in view of Sasaki, and in further view of Ito is an obvious teaching over the scopes of the present claims, since it has been held an obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could construct a method/program claim for said apparatus.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art pertinent to the current application, but are not considered exhaustive:


US Publication 2001/0053703 to Kobayashi; US Publication 2003/0164881 to Ohe et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (9/30/2005)


Stephen Husar
Primary Examiner